

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WILLIAM HARRIS,	:	
Petitioner	:	CIVIL ACTION
	:	
v.	:	
	:	
SUPERINTENDENT KERESTES,	:	
et al., Respondents	:	NO. 12-1596

ORDER

AND NOW, this 26th day of November, 2012, upon careful and independent consideration of the Petition for Writ of Habeas Corpus and the Response thereto, and after review of the Report and Recommendation of United States Magistrate Judge Arnold C. Rapoport and the objection to the Report filed by the Petitioner, IT IS HEREBY ORDERED that:

1. the Report and Recommendation is APPROVED and ADOPTED;
2. the objection to the Report and Recommendation is OVERRULED;
3. the Petition for Writ of Habeas Corpus is DISMISSED WITH PREJUDICE and without an evidentiary hearing; and
4. there is no probable cause to issue a certificate of appealability.

The Court considered the petitioner's written objection and attached exhibits, but does not find anything therein that disturbs that Report and Recommendation's conclusion that the federal habeas corpus petition at issue is statutorily time-barred and not eligible for equitable tolling.

The petitioner argues for equitable tolling, but the objection relies on documents related to the petitioner's state court post-conviction review that do not establish that equitable tolling is appropriate. See Fahy v. Horn, 240 F.3d 239, 244 (3d Cir. 2001) (noting that equitable tolling is only permitted: (1) if the respondent has actively misled the petitioner; (2) if the petitioner has in some extraordinary way been prevented from asserting his rights, or (3) if the petitioner has timely asserted his rights mistakenly in the wrong forum).

BY THE COURT:

/s/ Mary A. McLaughlin
MARY A. McLAUGHLIN, J.